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10 Attorneys for the California Public Utilities Commission and
11 Marybel Batjer, Martha Guzman Aceves, Clifford Rechtschaffen,
12 Genevieve Shiroma, and Darcie Houck in their official capacities as
13 Commissioners of the California Public Utilities Commission

14 **UNITED STATES DISTRICT COURT**
15 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
16 **SAN FRANCISCO DIVISION**

17 UNITED STATES OF AMERICA,

18 Plaintiff,

19 vs.

20 PACIFIC GAS AND ELECTRIC COMPANY,

21 Defendant.

Case No. 14-cr-00175-WHA

**CPUC MOTION FOR LEAVE TO FILE
AMICUS LETTER RE PROPOSED
CONDITIONS 13-16**

Courtroom: 12, 19th Floor
Judge: Hon. William H. Alsup

1 The California Public Utilities Commission (“CPUC”) hereby seeks leave of the
2 Court to file an *Amicus* letter regarding the new proposed terms of probation 13-16 for
3 defendant Pacific Gas and Electric Company (“PG&E”). Federal courts have inherent
4 authority to entertain Amicus briefs. *In re Bayshore Ford Truck Sales, Inc.*, 471 F.3d 1233,
5 1249, n.34 (11th Cir. 2006).

6 The CPUC’s proposed letter is attached hereto as **Exhibit 1**.

7
8 Respectfully submitted,

9
10 March 3, 2021 By: /s/ Christofer C. Nolan
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12 CHRISTINE JUN HAMMOND
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14 Attorneys for the CALIFORNIA PUBLIC
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EXHIBIT 1

STATE OF CALIFORNIA

GAVIN NEWSOM Governor

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



March 3, 2021

VIA ELECTRONIC MAIL

Honorable William H. Alsup
United States District Court
Northern District of California
Courtroom 12 - 19th Floor
450 Golden Gate Avenue
San Francisco, CA 94102

Re: *USA v. Pacific Gas and Electric Company*, Case No. 14-cr-00175-WHA;
Cannara Amici's Proposed Recordkeeping Conditions 13-16

Dear Judge Alsup,

The Court has requested that Pacific Gas and Electric Company ("PG&E"), the government, and the Federal Monitor respond to the recordkeeping conditions of probation proposed by the *Cannara Amici* contained in ECF No. 1283. Should the Court grant the California Public Utilities Commission's ("CPUC") motion to file these comments, the CPUC respectfully submits that current drives to improve PG&E's vegetation management, equipment, and maintenance records should be allowed to continue their focused course for the present.

Last June, the CPUC ratified the Wildfire Safety Division's¹ approval of PG&E's 2020 Wildfire Safety Plan with conditions.² One of the conditions expressly referenced PG&E's poor history of recordkeeping:³

Deficiency (PGE-16, Class C): PG&E's record keeping is deficient.

PG&E's history of poor record keeping. PG&E is only just moving from a paper records system to digitized records. The [CPUC] has found that

¹ The Wildfire Safety Division will become the Office of Energy Infrastructure Safety in July 2021 when it moves from the CPUC to the California Natural Resources Agency.

² CPUC Resolution WSD-003 and Wildfire Safety Division Action Statement on PG&E's 2020 Wildfire Mitigation Plan (June 11, 2020) at 1-2 (accessible at [340895473.PDF \(ca.gov\)](#)).

³ *Id.* at 40-41 (accessible at [340895473.PDF \(ca.gov\)](#)).

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PG&E's record keeping is deficient in other contexts with serious safety implications, including records on the location of its underground natural gas and electric lines. PG&E should explain whether it has detected errors or other problems with its wildfire mitigation records.

Condition (PGE-16, Class C): In PG&E's 2021 WMP update, PG&E shall:

- i. Disclose any problems with its paper record keeping system described in its WMP, and
- ii. Outline any gaps (missing records), inaccuracies (inadvertent or intentional) and other errors.

As required, PG&E's 2021 Wildfire Mitigation Plan responds to the Wildfire Safety Division's condition on Deficiency PGE-16.⁴ Describing its data governance risks and risk mitigations, PG&E addressed steps it is now taking to identify and correct issues as it transitions from paper to digital records, including processes it has put in place to resolve issues identified during this conversion.⁵ PG&E's response and indeed its entire 2021 Wildfire Mitigation Plan are undergoing critical scrutiny by the Wildfire Safety Division and parties. Importantly, interested stakeholders may comment on the 2021 Plan by March 29, 2021, with replies due April 6. If PG&E's 2021 Wildfire Mitigation Plan does not satisfactorily address the deficiency and corrective condition on recordkeeping, then the Wildfire Safety Division and the CPUC have multiple tools to remedy the ongoing deficiency.

The CPUC is also aware of the Court's Federal Monitor's oversight of PG&E's overhead electric system vegetation management recordkeeping, which oversight commenced in 2019.⁶ The Court's Federal Monitor has surfaced vital information on the state of PG&E's recordkeeping practices and deficiencies, and this information is informing the CPUC's Wildfire Safety Division and Safety and Enforcement Division ongoing oversight.

The CPUC accordingly believes that it would make sense for the Court to allow the Wildfire Safety Division's broad public process to review PG&E's recordkeeping proposal to proceed and receive further information from a broad cross-section of stakeholders before the Court takes action on any of the proposed recordkeeping conditions. The CPUC can provide the Court with updates on this process if desirable.

⁴ PG&E's 2021 Wildfire Mitigation Plan Report at 710-714 (ECF No. 1299-1 at 734-738).

⁵ Id.

⁶ Federal Monitor's comments on PG&E Vegetation Management Matters (Dec. 16, 2020) (ECF No. 1277-1) at 11-14.

Hon. William H. Alsup

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Sincerely,

/s/ Christine Jun Hammond

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